

REMARKS

35 U.S.C. § 112 Rejection

The Office Action rejects claims 26-50 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that the claims are incomplete for "omitting essential structural cooperative relationships of elements."

Applicants have amended claims 26, 34, 40 and 48 to explicitly provide for a structural cooperative relationship between the claim elements. Accordingly, Applicants respectfully request that the § 112 rejection of claims 26, 34, and 40 be withdrawn.

The Office Action rejects claims 31, 38, and 45 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that it "is unclear from the disclosure how a function of the tissue is related to the scalability of the RF signal."

Applicants have cancelled claims 31, 38, and 45 rendering the § 112 rejection of those claims moot.

35 U.S.C. § 102 Rejection

The Office Action rejects claims 26-28, 30, 33-35, 37, 39-42, 44, 46, and 49-50 under 35 U.S.C. 102(b) as being anticipated by US Patent 5484400 (Edwards).

Applicants have amended claim 26 to further distinguish over the Edwards reference. Claim 26, as amended, recites a

medical treatment device for treating tissue comprising a radio frequency (RF) generator for providing an RF signal and a probe coupled to the RF generator for transmitting RF energy from the RF signal into the tissue to be treated. The RF energy is imparted into the tissue to increase its temperature while maintaining a cold junction temperature of a thermocouple whose hot junction is located within the probe. The probe includes a sensor for measuring the temperature of the tissue and providing a measured temperature signal. The device includes a control unit coupled to the RF generator for controlling the RF signal in response to the measured temperature signal from the probe. The tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts.

The Edwards reference does not teach or suggest wherein the tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts. Applicants respectfully maintain the disclosure of the Edwards reference neither explicitly nor inherently discloses the claimed physical conditions.

Accordingly, claim 26 is believed to patentably distinguish over the Edwards reference. Claims 28-30, and 32-33 are

believed to be in condition for allowance as each is dependent from an allowable base claim.

Applicants have amended claim 34 to further distinguish over the Edwards reference. Claim 34, as amended, recites a medical instrument for treating tissue comprising a high frequency energy generator for providing an energy signal and a probe coupled to the high frequency energy generator for transmitting the energy signal into the tissue to be treated. The energy signal is imparted into the tissue to increase its temperature while maintaining a cold junction temperature of a thermocouple whose hot junction is located within the probe. The probe includes a sensor for measuring the temperature of the tissue and providing a measured temperature signal. The instrument includes a control unit coupled to the high frequency energy generator for controlling the energy signal in response to the measured temperature signal from the probe to maintain the temperature of the tissue at a target temperature, and an enclosure housing the high frequency energy generator and control unit. The enclosure has a control knob for selecting the target temperature, a display for displaying the measured temperature signal, and a connector for connecting the probe. The tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts.

The Edwards reference does not teach or suggest wherein the tissue is treated for a physical condition selected from the

group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts. Applicants respectfully maintain the disclosure of the Edwards reference neither explicitly nor inherently discloses the claimed physical conditions.

Accordingly, claim 34 is believed to patentably distinguish over the Edwards reference. Claims 36-37, and 39 are believed to be in condition for allowance as each is dependent from an allowable base claim.

Applicants have amended claim 40 to further distinguish over the Edwards reference. Claim 40, as amended, recites a medical treatment device for treating tissue comprising an energy generator for providing an energy signal and a probe having first and second tips coupled to the energy generator for transmitting the energy signal into the tissue to be treated. The energy signal is imparted into the tissue to increase its temperature while maintaining a cold junction temperature of a thermocouple whose hot junction is located within the probe. The device includes a control unit coupled to the energy generator for controlling the energy signal. The tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts.

The Edwards reference does not teach or suggest wherein the tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts. Applicants respectfully maintain the disclosure of the Edwards reference neither explicitly nor inherently discloses the claimed physical conditions.

Accordingly, claim 40 is believed to patentably distinguish over the Edwards reference. Claims 41, and 43-44 are believed to be in condition for allowance as each is dependent from an allowable base claim.

35 U.S.C. § 103 Rejection

The Office Action rejects claims 29, 43 and 47 under 35 U.S.C. 102(e) as being unpatentable over Edwards in view of US Patent 6280441 (Ryan).

Applicants believe that claims 29, 43, and 47 are allowable as each is dependent from an allowable base claim.

Allowable Subject Matter

The Office Action indicates that claim 48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and to include all of the limitations of the base claim and any intervening claims.

In response, Applicants have amended claim 48 in accordance with Examiner's instructions and to overcome the § 112 rejection.

Claim 48 recites a method of treating tissue comprising generating a radio frequency (RF) signal and transmitting RF energy from the RF signal into the tissue to be treated through a probe. The RF energy is imparted into the tissue to increase its temperature while maintaining a cold junction temperature of a thermocouple whose hot junction is located within the probe. The method includes providing a sensor in the probe for measuring the temperature of the tissue and providing a measured temperature signal, and controlling the RF signal in response to the measured temperature signal from the probe. The tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts.

None of the references disclose at least wherein the tissue is treated for a physical condition selected from the group consisting of Hypothermia, Actinic Keratosis, Angioma, Acrochordon, Atypical Mycobacteria, Chromoblastomycosis, Cystic Acne, Clavus, Cutaneous Leishmaniasis, Dermatophytosis, Epidermoid Cysts, Fibroma, Hydrocystoma, Keloids, Molluscum Contagiosum, Mycetoma, Seborrheic Keratosis, Sporotrichosis, Syringoma, and Warts.

Accordingly, claim 48 is believed to patentably distinguish over the prior art references. Claims 47 and 49-50 are believed to be in condition for allowance as each is dependent from an allowable base claim.

U.S. Application Serial No.: 10/801,416
Applicants: Paul C. Mioduski et al.
RESPONSE TO OFFICE ACTION DATED JANUARY 23, 2008

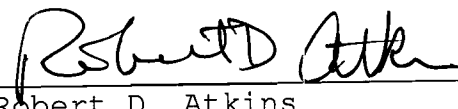
Conclusion

Applicants believe that all information and requirements for the application have been provided to the USPTO. If there are matters that can be discussed by telephone to further the prosecution of the Application, Applicants invite the Examiner to call the undersigned attorney at the Examiner's convenience.

The Commissioner is hereby authorized to charge any fees due with this Response to U.S. PTO Account No. 17-0055.

Respectfully submitted,
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April 14, 2008

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